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VIA ECF

Hon. Valerie E. Caproni
United States District Court
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square, New York, NY 10007

Re: Kane, et al v. de Blasio, et al
Docket 21 civ 7863

Dear Judge Caproni,

Plaintiffs filed a notice of interlocutory appeal today seeking preliminary injunctive relief. By this letter motion, Plaintiffs respectfully ask to stay further briefing on this matter in the district court pending interlocutory appeal. Currently, pursuant to the orders of this Court, all deadlines in this case are already adjourned sine die, other than deadlines for supplemental briefing on the preliminary injunction motion. Since that matter is now on appeal, Plaintiffs understanding is that the supplemental briefing related to the motion for preliminary injunction must be stayed. *See, e.g., Ching v. United States*, 298 F.3d 174, 180 n.5 (2d Cir. 2002) (citing *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (“The filing of a notice of appeal is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”). Indeed, the filing of a notice of appeal precludes the district court from ruling “on any motion affecting an aspect of the case that [is] before [the appellate court] . . . while that appeal [is] pending.” *Ching*,

298 F.3d at 180; *Hallock v. Bonner*, 2003 U.S. Dist. LEXIS 19671, 2003 WL 22519644, at *4 (N.D.N.Y. Nov. 4, 2003).

Plaintiffs seek confirmation that these supplemental briefings are stayed pending appeal. To the extent that Plaintiffs are mistaken in this understanding, we respectfully request a stay of this briefing schedule or in the alternative an adjournment of the return deadline of at least two weeks to accommodate Plaintiffs briefing schedule on appeal.

Pursuant to Rule 62(d), Plaintiffs also respectfully hereby request that this Court stay enforcement pending interlocutory appeal of Commissioner Chokshi's September 28, 2021 vaccine mandate for teachers (ECF 31-3).

Respectfully Submitted,

/s/ Sujata S. Gibson
Counsel for the Plaintiffs

Cc: All counsel via ECF